

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 235

2015 Regular Session

Murray

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

ALCOHOLIC BEVERAGES. Provides relative to the regulation of alcoholic beverages.
(1/1/16)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Adds provisions regarding Restaurant "R" permits and required square footage of the facility.
2. Adds provisions authorizing the commissioner to waive state application fees in certain instances and to provide a certain credit for failure to issue a permit within certain business days.
3. Adds provisions regarding regulations and authority of commissioner in enforcing laws prohibiting the sale or service of alcoholic beverages, tobacco, alternative nicotine, or vapor products to underage persons.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 235 Reengrossed

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Present law requires that alcoholic beverages be distributed only through wholesalers.

Present law makes an exception for sparkling wine and still wine. Provides that such products may be sold and shipped directly to a consumer in Louisiana by the manufacturer or retailer domiciled inside or outside of Louisiana, or by a wine producer domiciled inside or outside of Louisiana, provided that all taxes levied have been paid in full and that all of the following apply:

- (1) The consumer is 21 years of age or older.
- (2) The sparkling wine or still wine is for that consumer's personal consumption.
- (3) The total amount of sparkling wine or still wine shipped in 750 ml bottles does not exceed 144 bottles per adult person per household address per calendar year.
- (4) The wine producer, manufacturer, or retailer engaging in such direct sales holds a valid wine producer's, manufacturer's, or retailer's license issued by the state of its domicile.
- (5) The package in which the sparkling wine or still wine is shipped is prominently labeled as containing beverage alcohol.
- (6) The package in which such sparkling wine or still wine is shipped is received by a person 21 years of age or older.
- (7) The package contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.
- (8) The wine producer, manufacturer, or retailer domiciled outside of Louisiana has complied with the provisions of present law relating to annual application and quarterly statement to the secretary of Revenue.

- (9) The seller or shipper who is a wine producer or manufacturer is not a party, directly or indirectly, to any agreement in which a wholesaler licensed by Louisiana has been granted the right to purchase and to sell any sparkling wine or still wine produced by the manufacturer.

Proposed law retains present law and adds a requirement that prior to selling or shipping any sparkling wine or still wine directly to a consumer in Louisiana, a wine producer or manufacturer or retailer domiciled outside Louisiana register with the state office of alcohol and tobacco control. The registration is required to be renewed annually and updated within 30 days of any change to the information contained on the form.

Present law provided that prior to 2012, a wine producer, manufacturer or out-of-state retailer selling directly to consumers in Louisiana had to file monthly statements with the secretary of Revenue regarding shipments.

Proposed law deletes present law.

Present law provides that beginning in 2012, wine producers, manufacturers and out-of-state retailers are required to file quarterly statements regarding shipments.

Proposed law retains present law.

Proposed law authorizes the secretary of Revenue to release to the commissioner of the office of alcohol and tobacco copies of annual applications and quarterly statements of wine producers, manufacturers and out-of-state retailers authorized to sell directly to consumers.

Proposed law requires any person who transports sparkling wine or still wine for direct shipment into or out of Louisiana to register with the commissioner. Requires the commissioner to promulgate rules for transport registrants that include regular reporting requirements related to size of containers and quantities of sparkling wine and still wine contained in each shipment. Requires the rules to also include requirements that prevent sales and deliveries to underage persons.

Proposed law provides that any person who transports sparkling wine or still wine for direct shipment into or out of Louisiana in violation of proposed law or rules shall be subject to a civil penalty of up to \$25,000.

Present law, relative to restaurant "R" permits, defines "restaurant establishment", in part, as an establishment which has a public habitable floor area of no less than 500 square feet. However this shall not apply to business locations that apply to or have been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have not discontinued the sale and service of such beverages for more than six months. Proposed law specifies that the 500 square feet must be dedicated to the exclusive use of the applicant's or licensee's business. Proposed law provides that the commissioner may waive this requirement for any building listed as a historic building on an official registry or located within an officially designated historic district.

Present law provides that all applications for state alcoholic beverage permits shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, and all applications for local permits shall be mailed or delivered to the respective local authorities. Requires that an applicant mail or deliver both his applications for state and local permits within 24 hours of each other. Provides that if he fails to do so, his state application may be withheld and the permits denied. Requires that upon receipt of an application, the commissioner or the local authorities, as the case may be, stamp the day, month, and year received, and the commissioner shall verify that the applicant does not owe the state any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to the applicable statutes. Authorizes the commissioner and officers or employees specifically so authorized by the commissioner and local authorities to issue the permits immediately after proper investigation but, for a period of 35 days after issuance, such permits shall operate on a probationary basis subject to final action on, opposition to, or withholding of, the permits as hereinafter provided.

Proposed law provides that prior to August 1, 2016, the commissioner may waive all state application fees or provide an equal credit to an applicant's account when a permit is not issued within three business days after receipt of a fully and properly completed application. Otherwise retains present law.

Present law, relative to the Prevention of Youth Access to Tobacco Law, requires that the commissioner annually conduct random, unannounced inspections at locations where tobacco products are sold or distributed. Provides that persons under the age of 18 may be enlisted by employees of the office of alcohol and tobacco control to test compliance, but such persons may be used only if the testing is conducted under the direct supervision of such employees and written parental consent has been provided. Provides that any person under the age of 18 shall either carry the person's own identification showing the person's correct date of birth or shall carry no identification. Provides that a person under the age of 18 who carries identification shall, on request, present it to any seller of tobacco products. In addition, any person under the age of 18 enlisted under present law shall truthfully answer any questions about the person's age. Provides that any other use of persons under the age of 18 to test compliance with present law or any other prohibition of like or similar import shall be unlawful and the person or persons responsible for such use shall be subject to the penalties prescribed in present law.

Proposed law, relative to laws prohibiting the sale or service of alcoholic beverages, tobacco, alternative nicotine, or vapor products to underage persons, requires that the commissioner annually conduct random, unannounced inspections at locations where alcoholic beverages, tobacco, alternative nicotine, or vapor products are sold, served, or distributed. Provides that persons under the age of 18 or 21 may be enlisted by employees of the office of alcohol and tobacco control to test compliance, but such persons may be used only if the testing is conducted under the direct supervision of such employees and written parental consent has been provided if the person is under the age of 18. Provides that any person under the age of 18 or 21 shall either carry the person's own identification showing the person's correct date of birth or shall carry no identification. Provides that a person under the age of 18 or 21 who carries identification shall, on request, present it to any seller or server of alcoholic beverages, tobacco, alternative nicotine, or vapor products. In addition, any person under the age of 18 or 21 enlisted under present law shall truthfully answer any questions about the person's age. Provides that except where expressly authorized in writing by the commission in furtherance of the objectives of proposed law, any other use of persons under the age of 18 or 21 to test compliance with proposed law or any other prohibition of like or similar import shall be unlawful and the person or persons responsible for such use shall be subject to the penalties prescribed in present law.

Effective January 1, 2016.

(Amends R.S. 26:73(C)(1)(e), 79, 272(C)(1)(e), 279, and 359(D), (E), (F), and (G) and 793(C)(1); adds R.S. 26:359(B)(3))

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